

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

MARK WARREN PEARY, individually and in  
his capacity as executor of the Estate of Joseph  
Shuster,

Plaintiff,

vs.

DC COMICS, INC., et al.,

Defendants.

Civil Action No. 1:25-cv-00910-JMF

**DECLARATION OF MARC TOBEROFF IN SUPPORT OF PLAINTIFF'S MOTION  
FOR A PRELIMINARY INJUNCTION**

TOBEROFF & ASSOCIATES, P.C.  
23823 Malibu Road, Suite 50-363  
Malibu, CA 90265  
Telephone: (310) 246-3333  
Facsimile: (310) 246-3101

*Attorneys for Plaintiff Mark Warren Peary,  
individually and as executor of the Estate of  
Joseph Shuster*

February 28, 2025

**DECLARATION**

I, Marc Toberoff, declare as follows:

1. I am a member of the bar of the State of New York and a principal of the law firm Toberoff & Associates, P.C., counsel of record for Plaintiff Mark Warren Peary (“Plaintiff”). I submit this Declaration in Support of Plaintiff’s Motion for a Preliminary Injunction. Except where otherwise stated, I have personal knowledge of the facts set forth herein and, if called as a witness, could and would so testify.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the United Kingdom Copyright Act of 1911.

3. Attached hereto as **Exhibit 2** is a true and correct copy of the United Kingdom Copyright, Designs and Patents Act of 1988.

4. Attached hereto as **Exhibit 3** is a true and correct copy of the judgment in *Novello and Company Limited v. Keith Prowse Music Publishing Company Limited*, Case No.: HC03 C03797, decided on April 7, 2004, in the High Court of Justice, Chancery Division, the Honourable Mr. Justice Patten presiding.

5. Attached hereto as **Exhibit 4** is a true and correct copy of the Australian Copyright Act of 1968, Compilation No. 64, compiled on December 11, 2024, including Act No. 115 (2024).

6. Attached hereto as **Exhibit 5** is a true and correct copy of the judgment in *Seven Network (Operations) Ltd v TCN Channel Nine Pty Ltd*, decided on August 8, 2005, in the Federal Court of Australia, New South Wales District Registry, Judges Lindgren, Finkelstein and Edmonds presiding.

7. Attached hereto as **Exhibit 6** is a true and correct copy of the Canadian Copyright Act of 1985, R.S.C., 1985, c. C-42, last amended November 7, 2024.

8. Attached hereto as **Exhibit 7** is a true and correct copy of *Ownership of Copyright in Canada*, by Barry Torno of the Research and International Affairs Branch, Bureau of

Corporate Affairs, Consumer and Corporate Affairs Canada, Ministry of Supply & Services Canada, published in 1981.

9. Attached hereto as **Exhibit 8** is a true and correct copy of the Irish Copyright and Related Rights Act of 2000.

10. Attached hereto as **Exhibit 9** is a true and correct copy of *1 International Copyright Law and Practice*, AUS § 4, Ownership and Transfer, by Brad Sherman and James Lahore, published in 2025.

11. Attached hereto as **Exhibit 10** is a true and correct copy of *1 International Copyright Law and Practice*, CAN § 4, Ownership and Transfer, by Jeremy de Beer, Ysolde Gendreau and David Vaver, published in 2025.

12. Attached hereto as **Exhibit 11** is a true and correct copy of *2 International Copyright Law and Practice*, UK § 4, Ownership and Transfer, by Jonathan Griffiths, Lionel Bently and William R. Cornish, published in 2025.

13. Attached hereto as **Exhibit 12** is a true and correct copy of “Potential Problems with Commonwealth Copyright for Posthumous Poets and Other Dead Authors,” by Ken Cavalier, published in the *Journal of the Copyright Society of the U.S.A.*, Vol. 52, No. 2, Winter 2005.

14. Attached hereto as **Exhibit 13** is a true and correct copy of “Stanley Rothenberg: Final Thoughts on the Dickens Provision,” by Alan J. Hartnick, published in the *Journal of the Copyright Society of the U.S.A.*, Vol. 54, Nos. 2-3, Winter-Spring 2007.

15. Attached hereto as **Exhibit 14** is a true and correct copy of “Whose Ledger Is Really Red? Confidential Arbitration Killed the Black Widow,” by Daniel Charles Smolsky, published in the *Duquesne Law Review*, Vol. 61, No. 2 (2023).

16. Attached hereto as **Exhibit 15** is a true and correct copy of “Big Screen or Bust?: How Contractual Negotiations in Hollywood Must Adapt in the Streaming Era,” by Alexis Narotzky, published in the *Cardozo Journal of Conflict Resolution*, Vol. 24 (2023).

17. Attached hereto as **Exhibit 16** is a true and correct copy of “Bye Bye Back End, Hello Streaming,” by Brandon Milostan, published in the May 2019 issue of *Los Angeles Lawyer*.

18. Attached hereto as **Exhibit 17** is a true and correct copy of the Verified First Amended Complaint in the matter of *Village Roadshow Films (BVI) Limited, et al. v. Warner Bros. Entertainment Inc., et al.*, Case No. 22STCV04606, in the Superior Court of the State of California, County of Los Angeles, filed on March 25, 2022.

19. Attached hereto as **Exhibit 18** is a true and correct copy of the Complaint and Request for Judicial Reference Pursuant to Cal. Code Civ. Proc. § 638 in the matter of *TSG Entertainment Finance LLC v. Twentieth Century Fox Film Corporation, et al.*, Case No. 23STCV19433, in the Superior Court of the State of California, County of Los Angeles, filed on August 15, 2023.

20. Attached hereto as **Exhibit 19** is a true and correct copy of a February 3, 2025 article titled “Copyright Industries Add Record High \$2.09 Trillion to U.S. Economy and Employ 11.6 Million American Workers, According to Latest IIPA Report,” accessed at <https://www.theesa.com/copyright-industries-add-record-high-2-09-trillion-to-u-s-economy-and-employ-11-6-million-american-workers-according-to-latest-iipa-report/>.

21. Attached hereto as **Exhibit 20** is a true and correct copy of *Copyright Industries in the U.S. Economy: The 2024 Report*, by Jéssica Dutra, Ph.D. and Robert Stoner Ph.D., prepared for the International Intellectual Property Alliance, and published in February 2025.

22. Attached hereto as **Exhibit 21** is a true and correct copy of Warner Bros. Discovery’s 2023 Form 10-K filed with the Securities and Exchange Commission.

23. Attached hereto as **Exhibit 22** is a true and correct copy of an article published in *Variety* on January 15, 2022, titled “Streamers Help Reignite Big Battles Over Film and TV Profit Participation,” by Angus Finney.

24. Attached hereto as **Exhibit 23** is a true and correct copy of “The Paramount

Decrees and Block Booking: Why Block Booking Would Still Be a Threat to Competition in the Modern Film Industry,” by Mark Marciszewski, published in the *Vermont Law Review*, Vol. 45 (2020).

25. Attached hereto as **Exhibit 24** is a true and correct copy of “Hollywood Creative Accounting: The Success Rate of Major Motion Pictures,” by Sergio Sparviero, published in *Media Industries Journal*, Vol. 2.1 (2015).

26. Attached hereto as **Exhibit 25** is a true and correct copy of “Rear Window: The Future of Hollywood Contracting in the Streaming Age,” by Miller Friedman, published in the University of Maryland School of Law’s *Journal of Business & Technology Law*, Vol. 18, No. 1 (2022).

27. Attached hereto as **Exhibit 26** is a true and correct copy of an article published in *IndieWire* on September 14, 2021, titled “Christopher Nolan Exits Warner Bros. After Nearly Two Decades, New Film Set Up at Universal,” by Zack Sharf.

28. Attached hereto as **Exhibit 27** is a true and correct copy of a section of the Irish Revenue Commissioners’ *Tax and Duty Manual* titled “Revenue Legislative Services’ Guide to Interpreting Legislation,” Part 01-00-06, updated October 2024.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on February 28, 2025.

/s/ Marc Toberoff  
Marc Toberoff